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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF 24P; AG Order No. 3672-2016]

RIN: 1140-AA10

Commerce in Firearms and Explosives; Secure Gun Storage, Amended Definition of Antique Firearm, and Miscellaneous Amendments

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Justice (DOJ) proposes amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), largely to codify into regulation certain provisions of Public Law 105-277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. The proposed rule would amend ATF's regulations to account for the existing statutory requirement for applicants for firearms dealer licenses to certify that secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensed individuals. This certification is already included in the ATF Form 7, Application for Federal Firearms License. The proposed regulation would also require applicants for manufacturer or importer licenses to complete the certification if the licensee will have premises where firearms are sold to nonlicensees. Moreover, the proposed regulation would require that the secure gun storage or safety device be compatible with the

firearms offered for sale by the licensee. Finally, it also would conform the definitions of certain terms to the statutory language set forth in the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, including the definition of “antique firearm,” which would be amended to include certain modern muzzle loading firearms.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

ADDRESSES: Send comments to any of the following addresses—

- George M. Fodor, Mailstop 6.N-523, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue, NE, Washington, DC 20226; *ATTN: ATF 24P*. Written comments may be of any length and must appear in a minimum 12-point type (.17 inches), include a complete mailing address, and be signed.

- 202-648-9741 (facsimile).
- <http://www.regulations.gov>. Federal eRulemaking portal; follow the instructions for submitting comments.

You may also view an electronic version of this proposed rule at the <http://www.regulations.gov> site.

See the Public Participation section at the end of the **SUPPLEMENTARY INFORMATION** section for instructions and requirements for submitting comments, and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: George M. Fodor, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue, NE, Washington, DC 20226, telephone (202) 648-7070.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1998, Public Law 105-277 (112 Stat. 2681), the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (the Act), was enacted. Among other things, the Act amended the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44). Some of the GCA amendments made by the Act and the proposed regulation changes implementing the law are as follows¹:

(1) *Secure Gun Storage*. The Act amended subsection 923(d)(1) of the GCA (18 U.S.C. 923(d)(1)) to require that, with certain exceptions, applicants for firearm dealer licenses certify the availability of secure gun storage or safety devices at any place where firearms are sold under the license to nonlicensees. 18 U.S.C. 923(d)(1)(G). ATF interprets this provision as requiring secure gun storage or safety devices to be

¹ This proposed rule does not implement the Child Safety Lock Act of 2005 (CSLA), enacted as part of Public Law 109-92 (119 Stat. 2095), the Protection of Lawful Commerce in Arms Act. The CSLA amended the GCA by adding a new subsection, 18 U.S.C. 922(z), that makes it unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person not licensed under 18 U.S.C. Chapter 44, unless the transferee (buyer) is provided with a secure gun storage or safety device for that handgun. A number of exceptions are provided to this requirement, including transfers of handguns to law enforcement agencies and law enforcement officers and transfers of handguns classified as curios or relics.

compatible with the firearms offered for sale by the licensee. Therefore, applicants are required to certify the availability of compatible secure gun storage or safety devices at any place where firearms are sold under the license to nonlicensees. The certification requirement does not apply where a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee. *Id.* The Department proposes to add a new section 27 CFR 478.104 to specify the terms of the certification requirement.

ATF interprets the certification requirement to apply to applicants for importer or manufacturer licenses if the licensee will have premises where firearms are sold to nonlicensees. Federal regulations provide that a licensed importer or a licensed manufacturer may engage in the business on the licensed premises as a dealer in the same type of firearms authorized by the license to be imported or manufactured. 27 CFR 478.41(b). As such, an applicant for an importer or manufacturer license who will be engaged in the business as a dealer and have premises where firearms are sold to nonlicensees will be required to complete the certification.

In addition, the Act amended subsection 923(e) of the GCA (18 U.S.C. 923(e)) to provide that the Attorney General may revoke the license of any federal firearms licensee who fails to have secure gun storage or safety devices available at any place where firearms are sold under the license to nonlicensees, subject to the same exceptions noted above. The Department proposes to amend 27 CFR 478.73 to codify into regulation this provision of the law.

The Act defined the term “secure gun storage or safety device” in 18 U.S.C. 921(a)(34) to mean: (1) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device; (2) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or (3) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means. The Department proposes to amend 27 CFR 478.11 by adding a definition for the term “secure gun storage or safety device” that tracks the language in the statute.

An uncodified provision of the Act provides that “[n]otwithstanding any other provision of law, evidence regarding compliance or noncompliance [with the secure gun storage or safety device requirement] shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.” Public Law 105-277 sec. 119, reprinted in 18 U.S.C. 923 note. ATF construes this section as applying to civil liability actions against dealers and other similar actions, and not to proceedings associated with license denials or revocations (or appeals in federal court from decisions in such proceedings) involving noncompliance with the secure gun storage or safety device requirement of the GCA. A basic tenet of statutory construction is that each provision in a law is intended to have some effect. To interpret this provision as applying to license denial and revocation proceedings would result in the amendments to sections 923(d)(1) and (e) having no effective enforcement mechanism. To give meaning to the secure gun storage or safety device requirement and the authorization for the revocation of a license if the federal firearm licensee fails to have secure gun storage or safety devices available,

ATF reads this evidentiary limitation as not applying to license denial and revocation proceedings.

The provisions of the Act relating to secure gun storage became effective April 19, 1999.

(2) *Definition of Antique Firearm.* The Act also amended the definition of “antique firearm” in the GCA to include certain modern muzzle loading firearms. Specifically, section 115 of the Act amended the definition of “antique firearm” in subsection 921(a)(16) to include a weapon that is a muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol; that is designed to use black powder or a black powder substitute; and that cannot use fixed ammunition. The term expressly does not include any weapon that incorporates a firearm frame or receiver; any firearm converted into a muzzle-loading weapon; or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof. *See* 18 U.S.C. 921(a)(16)(C).

The provisions of the Act relating to antique firearms became effective upon the date of enactment, October 21, 1998.

The Department proposes to amend 27 CFR 478.11 to reflect the definition of the term “antique firearm” set forth in the Act.

(3) *Miscellaneous Amendments.* Prior to amendment by the Act, the term “rifle” was defined in the GCA to mean “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.” 18 U.S.C. 921(a)(7) (1994).

The Act amended the definition of “rifle” by replacing the words “the explosive in a fixed metallic cartridge” with “an explosive.”

Prior to amendment by the Act, the term “shotgun” was defined in the GCA to mean “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.” 18 U.S.C. 921(a)(5) (1994). The Act amended the definition of “shotgun” by replacing the words “the explosive in a fixed shotgun shell” with “an explosive.”

The provisions of the Act relating to the miscellaneous amendments also became effective upon the date of enactment, October 21, 1998.

The Department proposes to amend 27 CFR 478.11 to reflect the definitions of the terms “rifle” and “shotgun” set forth in the Act.

How this Document Complies with the Federal Administrative Requirements for Rulemaking

A. Executive Orders 12866 and 13563 - Regulatory Planning and Review

This proposed regulation has been drafted and reviewed in accordance with Executive Order 12866, “Regulatory Planning and Review,” section 1(b), The Principles of Regulation, and in accordance with Executive Order 13563, “Improving Regulation and Regulatory Review,” section 1(b), General Principles of Regulation.

The Department has determined that this proposed rule is a “significant regulatory action” under section 3(f) of Executive Order 12866 and, accordingly, this proposed rule has been reviewed by the Office of Management and Budget. However, this proposed

rule will not have an annual effect on the economy of \$100 million, nor will it adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or tribal governments or communities. Accordingly, this proposed rule is not an “economically significant” rulemaking under Executive Order 12866.

Further, both Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The economic effects associated with this proposed rule are attributable to the statutory requirement that went into effect in 1999 that applicants for federal firearms licenses must certify that, with certain exceptions, secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensees. The proposed rule does not impose additional costs on the licensed dealer beyond what is already required by statute. However, the proposed rule would extend this certification requirement to manufacturers or importers who have premises from which firearms are sold to nonlicensees. The additional costs imposed on these manufacturers and importers is, however, likely to be minimal.

The rule proposes that the licensed dealer, or licensed manufacturer or importer having premises where firearms are sold to nonlicensees, must certify that they will make available firearms safety locks or secure gun storage devices that will be compatible with

each type of firearm that the licensee sells. One measure of the cost of these proposed safety device requirements—requirements that, as noted, already are required by statute for licensed dealers—is the opportunity cost of licensees making secure gun storage and safety devices available instead of not stocking them or stocking other products that might have a higher profit margin or that consumers may prefer more. The opportunity cost would be measured as the foregone profit that could be earned by licensees in the absence of the requirement.

ATF lacks data to reliably estimate this opportunity cost. For example, ATF is not aware of any data sources on the number or share of licensees that would not make gun storage or safety devices available absent the statutory requirement, the number and types of gun storage or safety devices that licensees would need to make available in order to comply with the statutory requirement, or the products that licensees would have made available absent the requirement. ATF seeks information from the public on data and methods for estimating the opportunity cost of this requirement.

Although ATF lacks data to reliably estimate the opportunity cost of the safe storage requirement, it is worth noting that a number of factors may affect the number of secure gun storage or safety devices that an individual licensee must supply on his premises and the overall cost to licensees of purchasing the required devices. *First*, dealers, manufacturers, and importers may be able to recover the cost of purchasing secure gun storage or safety devices through the sale of those products to their customers. *Second*, many of the secure gun storage or firearm safety devices are compatible with numerous firearms. Therefore, one secure gun storage or safety device will be able satisfy the requirement for all firearms that are compatible with that secure gun storage or

safety device. *Third*, because safety devices, such as trigger locks and cable locks, are commodities that police departments provide free or the cost of which ranges from less than \$1 up to \$10, a licensee might be able to enter into an agreement with those departments pursuant to which local law enforcement would provide the devices free of charge on the licensee's premises. *Finally*, manufacturers may choose to package compatible safety devices along with new handgun and long gun offerings. Such integrated packaging relieves the federal firearms licensee from the cost of providing safety devices for those firearms. These four factors, which ATF cannot measure with precision, may affect the number of secure gun storage or safety devices that an individual licensee must supply and the overall costs to licensees of purchasing the required devices.

The overall benefit of the secure gun storage or safety devices requirement is to provide firearm purchasers with the ability to acquire a device that will allow them to safely secure their firearms from unlawful use or accidental discharge.

The economic effects associated with amending the definition of the term "antique firearm" will result in a cost savings to the licensee and ATF. Federal firearms licensees are no longer required to expend resources to record transactions of any firearm meeting the amended definition of an antique firearm contained in this proposed rule, because antique firearms are not regulated by ATF. Since ATF does not collect any data regarding these firearms transactions, and federal firearms licensees are not required to keep records of these firearms, ATF is unable to measure the cost impact of amending the definition of antique firearms except to indicate that licensees will no longer be required to keep records on the antique firearms that meet the definition. Additionally, the

amendments to the definitions reflect the definitions currently codified in the statute. Since the enactment of Public Law 105-277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 on October 21, 1998, federal firearms licensees have followed these amended statutory definitions and no additional economic change or impact will result from these amendments to the regulations.

There are no costs associated with the proposed amendments to the definitions of the terms “rifle” and “shotgun” as these are technical amendments that integrate statutory language, which have no associated costs, into the regulations.

B. Executive Order 13132

This proposed rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, “Federalism,” the Attorney General has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

C. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, “Civil Justice Reform.”

D. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 605(b), requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses,

small not-for-profit enterprises, and small governmental jurisdictions. The Attorney General has reviewed this proposed rule and, by approving it, certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

The economic effects associated with this proposed rule are attributable to statutory requirements that went into effect in 1999, that applicants for federal firearms licenses must certify that, with certain exceptions, secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensees. The proposed rule does not impose additional costs or burden on the licensed dealer beyond what is already required by statute. However, the proposed rule would extend this certification requirement to manufacturers or importers who have premises from which firearms are sold to nonlicensees. The additional costs imposed on these manufacturers and importers is, however, likely to be minimal.

The rule proposes that the licensed dealer, or licensed manufacturer or importer having premises where firearms are sold to nonlicensees, must certify that they will make available firearms secure gun storage or safety devices that will be compatible with each types of firearms that the licensee sells. One measure of the cost of these proposed safety device requirements—requirements that, as noted, already are required by statute for licensed dealers—is the opportunity cost of licensees making secure gun storage and safety devices available instead of not stocking them or stocking other products that might have a higher profit margin or that consumers may prefer. The opportunity cost would be measured as the foregone profit that could be earned by licensees in the absence of the requirement.

ATF lacks data to reliably estimate this opportunity cost. For example, ATF is not aware of any data sources on the number or share of licensees that would not make gun storage or safety devices available absent the statutory requirement, the number and types of gun storage or safety devices that licensees would need to make available in order to comply with the statutory requirement, or the products that licensees would have made available absent the requirement. ATF seeks information from the public on data and methods for estimating the opportunity cost of this requirement.

Although ATF lacks data to reliably estimate the opportunity cost of the safe storage requirement, it is worth noting that a number of factors may affect the number of secure gun storage or safety devices that an individual licensee must supply on his premises and the overall cost to licensees of purchasing the required devices. *First*, dealers, manufacturers, and importers may be able to recover the cost of purchasing secure gun storage or safety devices through the sale of those products to their customers. *Second*, many of the secure gun storage or firearm safety devices are compatible with numerous firearms. Therefore, one secure gun storage or safety device will be able to satisfy the requirement for all firearms that are compatible with that secure gun storage or safety device. *Third*, because safety devices, such as trigger locks and cable locks, are commodities that police departments provide free or the cost of which ranges from less than \$1 up to \$10, a licensee might be able to enter into an agreement with those departments pursuant to which local law enforcement would provide the devices free of charge on the licensee's premises. *Finally*, manufacturers may choose to package compatible safety devices along with new handgun and long gun offerings. Such integrated packaging relieves the federal firearms licensee from the cost of providing

safety devices for those firearms. These four factors, which ATF cannot measure with precision, may affect the number of secure gun storage or safety devices that an individual licensee must supply and the overall costs to the licensee of purchasing the required devices.

The overall benefit of the secure gun storage or safety devices requirement is to provide firearms purchasers with the ability to acquire a device that will allow them to safely secure their firearms from unlawful use or accidental discharge.

The economic effects associated with amending the definition of the term “antique firearm” will result in a cost savings to the licensee and ATF. Federal firearms licensees are no longer required to expend resources to record transactions of any firearm meeting the amended definition of an antique firearm contained in this proposed rule, because such firearms are not regulated by ATF. Since ATF does not collect any data regarding these firearm transactions, federal firearms licensees are not required to keep records of these firearms, ATF is unable to measure the cost impact of amending the definition of antique firearms except to indicate that licensees will no longer be required to keep records on the antique firearms that meet the definition. Additionally, the amendments to the definitions reflect the definitions currently codified in the statute. Since the enactment of Public Law 105-277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 on October 21, 1998, federal firearms licensees have followed these amended statutory definitions and no additional economic change or impact will result from these amendments to the regulations.

There are no costs associated with the proposed amendments to the definitions of the terms “rifle” and “shotgun” as these are technical amendments that integrate statutory language, which have no associated costs, into the regulations.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 804. This proposed rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

F. Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

G. Paperwork Reduction Act of 1995

This proposed rule would revise an existing reporting requirement under the provisions of the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320. The proposed rule provides that an applicant for a federal firearms dealer license, or an applicant for a federal firearms importer or manufacture license who will be engaged in business on the licensed premises as a dealer in the same type of firearms authorized by the license to

import or manufacture, must certify on ATF Form 7 (5310.12), Application for Federal Firearms License, that compatible secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees.

The proposed rule modifies ATF Form 7 by amending Item 27 to include the word “compatible” in front of the phrase “secure gun storage” in the certification. This edit does not change or alter the burden or recordkeeping requirements associated with ATF Form 7. The burden and respondent information associated with the certification of secure storage and safety devices have already been accounted for with respect to ATF Form 7, and were approved by the Office of Management and Budget under control number 1140-0018.

Public Participation

A. Comments Sought

ATF is requesting comments on the proposed rule from all interested persons. ATF is also specifically requesting comments on the clarity of this proposed rule and how it may be made easier to understand.

In addition, ATF requests comments regarding the extent to which this proposed rule will result in any new costs to the public, and what benefits may be realized.

All comments must reference this document docket number (ATF 24P), be legible, and include your name and mailing address. ATF will treat all comments as originals and will not acknowledge receipt of comments.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to

do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

B. Confidentiality

Comments, whether submitted electronically or on paper, will be made available for public viewing at ATF, and on the Internet as part of the eRulemaking initiative, and are subject to the Freedom of Information Act. Commenters who do not want their name or other personal identifying information posted on the Internet should submit their comment by mail or facsimile, along with a separate cover sheet that contains their personal identifying information. Both the cover sheet and comment must reference this docket number. Information contained in the cover sheet will not be posted on the Internet. Any personal identifying information that appears within the comment will be posted on the Internet and will not be redacted by ATF.

Any material that the commenter considers to be inappropriate for disclosure to the public, but is not confidential under law, should not be included in the comment. Any person submitting a comment shall specifically designate that portion (if any) of his comments that contains material that is confidential under law (e.g., trade secrets, processes, etc.). Any portion of a comment that is confidential under law shall be set forth on pages separate from the balance of the comment and shall be prominently marked “confidential” at the top of each page. Confidential information will be included in the rulemaking record but will not be disclosed to the public. Any comments containing material that is not confidential under law may be disclosed to the public. In any event, the name of the person submitting a comment is not exempt from disclosure.

C. Submitting Comments

Comments may be submitted in any of three ways:

- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments may be of any length and must appear in a minimum 12-point font type (0.17 inches), include your complete mailing address, and be signed.

- *Facsimile:* You may submit comments by facsimile transmission to (202) 648-9741. Faxed comments must:

- (1) Be legible and appear in a minimum 12-point font type (0.17 inches);
- (2) Be on 8½" x 11" paper;
- (3) Contain a legible, written signature; and
- (4) Be no more than five pages long. ATF will not accept faxed comments that exceed five pages.

- *Federal eRulemaking Portal:* To submit comments to ATF via the Federal eRulemaking portal, visit <http://www.regulations.gov> and follow the instructions for submitting comments.

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director of ATF within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received will be available for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E-062, 99 New York Avenue, NE, Washington, DC 20226; telephone: (202) 648-8740.

Drafting Information

The author of this document is George M. Fodor, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Customs duties and inspection, Exports, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

Accordingly, for the reasons discussed in the preamble, 27 CFR Part 478 is proposed to be amended as follows:

PART 478--COMMERCE IN FIREARMS AND AMMUNITION

1. The authority citation for 27 CFR Part 478 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921-931; 44 U.S.C. 3504(h).

2. Amend ' 478.11 as follows:

- a. Remove the words “the explosive in a fixed metallic cartridge” in the definition of “Rifle” and add in their place “an explosive”;

- b. Remove the words “the explosive in a fixed shotgun shell” in the definition of “Shotgun” and add in their place “an explosive”; and

- c. Revise the definition of “Antique firearm” and add a definition for the term “Secure gun storage or safety device”, to read as follows:

§ 478.11 Meaning of terms.

* * * * *

Antique firearm. (a) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

(b) Any replica of any firearm described in paragraph (a) of this definition if such replica --

(1) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(2) Uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade; or

(c) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this paragraph (c), the term “antique firearm” does not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle loading weapon, or any muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

* * * * *

Secure gun storage or safety device. (a) A device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

(b) A device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

(c) A safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

* * * * *

3. Amend ' 478.73 by adding a sentence after the first sentence in paragraph (a) to read as follows:

§ 478.73 Notice of revocation, suspension, or imposition of civil fine.

(a) *Basis for action.* * * * In addition, a notice of revocation of the license, ATF Form 4500, may be issued whenever the Director has reason to believe that a licensee fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee). * * *

* * * * *

4. Add § 478.104 to subpart F to read as follows:

§ 478.104 Secure gun storage or safety device.

(a) Any person who applies to be a licensed firearms dealer must certify on ATF Form 7 (5310.12), Application for Federal Firearms License, that compatible secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensed individuals (subject to the exception that in any case in which a

secure gun storage or safety device is temporarily unavailable because of theft, casualty, loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered in violation of the requirement to make available such a device).

(b) Any person who applies to be a licensed firearms importer or a licensed manufacturer and will be engaged in business on the licensed premises as a dealer in the same type of firearms authorized by the license to be imported or manufactured must make the certification required under paragraph (a) of this section.

(c) Each licensee described in this section must have compatible secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees. However, such licensee shall not be considered to be in violation of this requirement if a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee.

_May 17, 2016._____
Date

Loretta E. Lynch
Attorney General

[FR Doc. 2016-12364 Filed: 5/25/2016 8:45 am; Publication Date: 5/26/2016]